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Indicates New Matter

AMENDED--NOT PRINTED IN THE HOUSE

Amt. No. 1 (3559C002.GT.CM17)

March 29, 2017

**H. 3559**

Introduced by Reps. Pitts, Ott, Putnam, Gagnon, Atkinson, Dillard, Martin, West, Hill, Bedingfield, Gilliard, Kirby, Davis, King and Whipper

S. Printed 3/29/17--H.

Read the first time January 24, 2017.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Amended by the House Agriculture, Natural Resources, and Environmental Affairs on March 23, 2017**

**State Expenditure**

This bill creates the industrial hemp program. The bill clarifies definitions to distinguish industrial hemp from marijuana. The bill allows land grant universities or research universities in the state to conduct research, contingent upon funding. Universities may conduct pilot programs to cultivate hemp as an agricultural commodity, and work with growers in South Carolina. Once engaged in research, universities must work in conjunction with the Department of Agriculture to identify applications, applicants, and new market opportunities for industrial hemp growers.

The bill authorizes the Department of Agriculture to issue up to fifteen grower permits annually to initiate a three-year pilot program pursuant to 7 USC 5940. Applicants must submit to state and national criminal record checks supported by fingerprints. Growers must be registered with the department and must show proof of buyer contracts. Growers must provide global positioning coordinates, contact information, written consent allowing SLED to enter cultivation areas, as well as any other information required by the department. The department may charge growers application, registration, and renewal fees not to exceed $250 annually per registrant. Monies from these fees must be continuously appropriated to the department to carry out the duties of this program.

The bill provides guidelines for growers and states that industrial hemp products intended for human consumption (i.e., ingested or topically applied) must be tested by an independent testing laboratory. Additional testing guidelines are provided.

Anyone who manufactures, distributes, or purchases marijuana in a manner intended to disguise it as hemp is guilty of a misdemeanor and upon conviction may be imprisoned for up to three years or fined up to three thousand dollars, or both. This provision is unchanged from existing law, and therefore, does not have an expenditure impact.

**Department of Agriculture.** This bill requires the department to regulate the registration of hemp growers and explore new market opportunities for industrial hemp products. The department reports that this bill would have an expenditure impact of $56,183 on the general fund. Expenditures include $40,383 for salary and employer contributions for one marketing specialist and $15,800 for operating expenses.

**Clemson—Public Service Activities.** Since the bill does not mandate that land grant universities engage in research or extension activities, this bill should have no expenditure impact on the general fund, federal funds, or other funds. However, with the authorization of a pilot program, there could be expenditures incurred by the agency or assessed to program participants.

**SC State University—Public Service Activities.** Since the bill does not mandate that land grant universities engage in research or extension activities, this bill should have no expenditure impact on the general fund, federal funds, or other funds. Any participation in the authorized pilot program would be contingent upon funding.

**Public Institutions of Higher Education.** The Commission on Higher Education surveyed the state’s research institutions (Medical University of South Carolina, Clemson University, SC State University, and the University of South Carolina) for the impact the amended bill would have on expenditures. Clemson University and the University of South Carolina indicated any expenditures associated with authorized pilot programs would be covered by fees collected from program participants. Therefore, this bill is not expected to have any expenditure impact on the general fund or federal funds. Other funds may be impacted once cannabinoid research programs are established.

**State Revenue**

The bill authorizes the Department of Agriculture to permit up to fifteen growers per year and charge permit fees of up to $250. Consequently, the Department of Agriculture will be able to collect a maximum of $3,750 in application and registration fees annually to offset expenditures of $56,183.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND CHAPTER 55, TITLE 46, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CULTIVATION OF INDUSTRIAL HEMP, SO AS TO REVISE THE DEFINITIONS OF TERMS CONTAINED IN THIS CHAPTER, TO PROVIDE A DEFINITION FOR THE TERM “HUMAN CONSUMPTION”, TO CREATE THE SOUTH CAROLINA INDUSTRIAL HEMP PROGRAM, TO PROVIDE THAT INDUSTRIAL HEMP IS AN AGRICULTURAL CROP UPON WHICH AN INSTITUTION OF HIGHER EDUCATION MAY CONDUCT RESEARCH, TO PROVIDE THAT INDUSTRIAL HEMP OR HEMP PRODUCTS MAY NOT BE CONSIDERED AN ADULTERANT, TO PROVIDE PROVISIONS THAT REGULATE THE GROWING, SELLING, AND IMPORTATION OF INDUSTRIAL HEMP AND HEMP SEED, TO DELETE THE PROVISION THAT EXCLUDES INDUSTRIAL HEMP FROM THE DEFINITION OF MARIJUANA, TO REVISE THE PROVISION THAT SPECIFIES THAT CERTAIN CONDUCT REGARDING THE MANUFACTURING, DISTRIBUTION, PURCHASE, AND OTHER ACTIVITIES RELATING TO DISGUISING MARIJUANA TO MAKE IT APPEAR TO BE INDUSTRIAL HEMP, AND TO PROVIDE FOR LABORATORY TESTING OF INDUSTRIAL HEMP.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 55, Title 46 of the 1976 Code is amended to read:

“CHAPTER 55

Industrial Hemp Cultivation

Section 46‑55‑10. For the purposes of this chapter:

(1) ‘Industrial hemp products’ means all products made from any part of industrial hemp, including, but not limited to, cannabinoids cloth, construction materials, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed meal, supplements, and seed oil for consumption, and seed for cultivation if the seeds originate from industrial hemp varieties.

(2) ‘Industrial hemp’ means ~~all parts and varieties of the plant cannabis sativa, cultivated or possessed by a licensed grower, whether growing or not, that contain of no more tetrahydrocannabinol concentration than adopted by federal law in the Controlled Substances Act, 21 U.S.C. 801, et seq~~ the plant Cannabis sativa L. and any part of such plant, whether growing or not, with a delta‑9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dried weight basis.

(3) ‘~~Tetrahydrocannabinol~~ delta‑9 tetrahydrocannabinol’ means the natural or synthetic equivalents or substances contained in the plant, or in the resinous extractives of cannabis, or any synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity.

(4) ‘Human consumption’ means to ingest or topically apply to the skin or hair.

Section 46‑55‑20. (1) The South Carolina Industrial Hemp Program is created.

(2) Industrial hemp is an agricultural crop. Any land grant university or research university throughout the State may conduct research, pursuant to Public Law 113‑79, contingent upon funding. The university may conduct research and, or pilot programs as an agriculture commodity and may work with growers located in South Carolina. Once a university engages in research on industrial hemp, the university shall work in conjunction with the Department of Agriculture to identify solutions for applications, applicants, and new market opportunities for industrial hemp growers. The purchaser or manufacture will be included under the provisions of this chapter.

(3) The Department of Agriculture will allow up to fifteen permits to be issued annually, to South Carolina residents, for the purposes of a pilot program. Each permittee is permitted to grow industrial hemp on up to twenty acres of land. When applying for a permit, each applicant, at a minimum must submit to the department, global positioning system coordinates of where the industrial hemp will be grown and must submit any and all information, including, but not limited to fingerprints and the appropriate fees, required by the South Carolina Law Enforcement Division (SLED) to perform a fingerprint based state criminal records check and for the Federal Bureau of Investigation to perform a national fingerprint based criminal records check.

(4) The department shall require a state criminal records check, supported by fingerprints, by the SLED, and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the department. SLED is authorized to retain the fingerprints for certification purposes and for notification of the department regarding criminal charges. No person who has been convicted of any felony, or any person convicted of any drug‑related misdemeanor or violation in the previous ten years from the date of the application, shall be eligible to obtain a permit.

(5) Before the department will issue a permit to the applicant, the applicant must have proof of a signed purchaser with a contract.

(6) Industrial hemp is an agriculture crop subject to regulations by the Department of Agriculture.

(7) To grow industrial hemp, a person must be registered with the department as a grower.

(8) To register, an applicant, under this section must submit to the department, in a manner prescribed by the department, the following information:

(a) the name and address of the applicant;

(b) the name and address of the industrial hemp operation of the applicant;

(c) the Global Positioning System coordinates of the land on which the industrial hemp will be planted, grown, cultivated, or processed;

(d) any other information required by the department through regulations; and

(e) written consent allowing SLED to enter onto all premises where industrial hemp is cultivated, processed, or stored for the purpose of conducting physical inspections or ensuring compliance with the Industrial Hemp Pilot Program.

(9) A grower may renew a registration under this section in a manner prescribed by the department.

(10) The department may charge growers application, registration and renewal of registration fees reasonably calculated by the department to pay the cost of administering the South Carolina Industrial Hemp Program, but not to exceed two hundred and fifty dollars annually per registrant. Moneys from fees collected under this subitem shall be continuously appropriated to the department for purposes of carrying out the duties of the South Carolina Industrial Hemp Program under this section.

(11) It is lawful for ~~an~~ a permitted individual to cultivate, produce, or otherwise grow industrial hemp in this State to be used for any lawful purpose, including, but not limited to, the manufacture of industrial hemp products, and scientific, agricultural, or other research related to other lawful applications for industrial hemp.

(12) For the purposes of Chapter 25, Title 39, industrial hemp or industrial hemp products may not be considered to be an adulterant.

Section 46‑55‑30. ~~Industrial hemp is excluded from the definition of marijuana in Section 44‑53‑110.~~

(1) A grower may use any propagation method including, but not limited to, planting seeds or starts or the use of clones or cuttings, to produce industrial hemp. Nothing in this article limits or precludes a grower from propagating or cultivating noncertified industrial hemp seed.

(2) Notwithstanding any other provision of law, except subject to federal law, a person engaged in cultivating, processing, selling, transporting, possessing, or otherwise distributing industrial hemp, or selling industrial hemp products from industrial hemp, is not subject to any civil or criminal actions under South Carolina law for engaging in these activities. Nothing in this chapter limits or precludes the importation or exportation of industrial hemp or industrial hemp products. The provisions of the chapter create a three‑year pilot program as contained in 7 U.S.C. Section 5940.

Section 46‑55‑40. ~~An individual who manufactures, distributes, dispenses, delivers, purchases, aids, abets, attempts, or conspires to manufacture, distribute, dispense, deliver, purchase, or possesses with the intent to manufacture, distribute, dispense, deliver, or purchase marijuana on property used for industrial hemp production, or in a manner intended to disguise the marijuana due to its proximity to industrial hemp, is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years or fined not more than three thousand dollars, or both. The penalty provided for in this section may be imposed in addition to any other penalties provided by law.~~ (A) For purposes of this section:

(1) ‘Independent testing laboratory’ means any facility, entity, or site that offers or performs tests of industrial hemp or industrial hemp‑based products that has been accredited by an independent accreditation body.

(2) ‘Accreditation body’ means an impartial organization that provides accreditation to ISO/IEC 17025 requirements and is a signatory to the International Laboratory Accreditation Corporation Mutual Recognition Arrangement for Testing.

(3) ‘Scope of accreditation’ means a document issued by the accreditation body which describes the methodologies, range, and parameters for testing for which the accreditation has been granted.

(B) Independent testing laboratories may test industrial hemp and industrial hemp products produced or processed by a grower or processor.

(C) All testing performed to meet regulatory requirements shall be included in an independent testing laboratory’s scope of accreditation.

(D) An independent testing laboratory shall demonstrate the ability to accurately quantitate individual cannabinoids in both their acidic and neutral forms down to 0.05 percent by weight including, but not limited to, delta9‑THC, delta9‑THCA, cannabidiol (CBD) and CBDA.

(E) Testing is required by an International Organization for Standardization (ISO) Certified Laboratory Facility as approved by an accredited body. The test results must be retained by the grower or processor for at least three years, and be made readily available to any state law enforcement agency upon request. Any industrial hemp sample testing over three‑tenths of one percent delta‑9 tetrahydrocannabinol must be destroyed in a controlled environment with law enforcement present.

(F) Registered growers shall have a minimum of four random samples per grow tested for delta‑9 THC concentration not more than thirty days prior to harvest. If the grower has planted different varieties, at least one sample from each variety must be tested for delta‑9 THC concentrations.

(G) Industrial hemp or industrial hemp products, intended by a processor for sale for human consumption, shall be tested by an independent testing laboratory to confirm products are fit for human consumption and meet United States Food Industry standards for food products. Testing shall confirm safe levels of potential contaminants including, but not limited to, pesticides, heavy metals, residual solvents, and microbiological contaminants.

(H) All test results and corresponding product batch numbers shall be retained by the registered processor for at least three years.

Section 46‑55‑50. Industrial hemp is excluded from the definition of marijuana in Section 44‑53‑110.

Section 46‑55‑60. An individual who manufactures, distributes, dispenses, delivers, purchases, aids, abets, attempts, or conspires to manufacture, distribute, dispense, deliver, purchase, or possesses with the intent to manufacture, distribute, dispense, deliver, or purchase marijuana in a manner intended to disguise the marijuana due to its proximity to industrial hemp, is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years or fined not more than three thousand dollars, or both. The penalty provided for in this section may be imposed in addition to any other penalties provided by law.”

SECTION 2. This act takes effect upon approval by the Governor.

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